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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,496	11/06/2001	Kenneth G. Lang	60,130-1117;01MRA0227	6792
26096	7590	01/02/2004	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			ILAN, RUTH	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/992,496

Applicant(s)

LANG ET AL.

Examiner

Ruth Ilan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The amendment of October 9, 2003 is acknowledged. An action on the merits follows below.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 9, 11, 13, and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Albrecht et al. (DE 198 58 259 A1 and the translation document PTO 04-0041.) Please note that all references to text in the rejection below will be to the translation document included with this action. Albrecht et al. teaches (Figure 1) a first support member attached to a body of a vehicle (top unnumbered bead plate of air spring 2, shown in Figure 1) and a second support member (8) that moves relative to the first support member (see lines 1-4, page 8 of translation.) Also taught is a height holding device (3,11,10) that is partially within an air spring (2.) The holding device is moveable from a first retracted position (Figure 3-6, see also page 10, lines 21-23) into a second extended position that maintains a desired spacing (see Figure 2 and page 9, third full paragraph, and page 10, lines 9-12.) Also taught is a biasing member that biases the device into the first position (12, see page 6, line 14, page 8, lines 17-18, page 10, lines 16 and 23.) Regarding claim 2, Albrecht et al. teaches a hydraulic ram with a piston portion (11, see page 8, line 14) that is actuated (via 21) in response to a

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parking brake (see page 9, 2<sup>nd</sup> and 3<sup>rd</sup> paragraph.) The moveable portion (3) is locked into the second position (via cheek pieces 5, see top of page 10.) Regarding claim 6, the level is set by the air spring, not the height holding device, and since the height holding device only holds its position when locked by element 5 it is the Examiner's position that Albrecht et al. inherently meets the limitation of this claim, since the hydraulic cylinder disclosed would be too small to move the vehicle body. Regarding claim 7, the unnumbered top plate of 2 is the bead plate, and the unnumbered bottom plate of 1 is the retainer plate. Regarding claim 9, a bumper is taught (9.)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12, 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht et al. (DE 198 58 259 A1 and the translation document PTO 04-0041) in view of Galazin et al. (WO 00/53442.) Albrecht et al. is discussed above, and additionally provides indication that upon locking of the height holding device the pressure in the air spring can be reduced (see page 10 of translation, line 7.) but does not specifically disclose that the pressure in the air spring is evacuated. Galazin et al. teaches that it is known to evacuate the air pressure in an air spring system that includes a holding device because the height of the air spring needs to be adjusted to that of a loading

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platform to facilitate loading of the trailer (see page 2, line 10) and that generally, pressurized air is unavailable during the loading process(see page 2, lines 20-24.) It would have been obvious to one having ordinary skill in the art at the time of the invention, to understand the upon actuation of the parking brake of Albrecht et al. and the loading process that the air spring would be evacuated to control the height to that of the dock, and since compressed air is generally not available during the loading process, as taught by Galazin et al.

Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albrecht et al. (DE 198 58 259 A1 and the translation document PTO 04-0041)Albrecht et al. is discussed above and teaches all elements of the claimed invention except that the height holding device is supported on a support plate, not the bead plate. It would have been obvious to one having ordinary skill in the art at the time of the invention to support the device on the bead plate, since it has been held that the rearranging or location of the parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

### ***Response to Arguments***

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. PTO 04-0442 is a translation of previously cited DE 198 06 499 A1.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 703-306-5956.

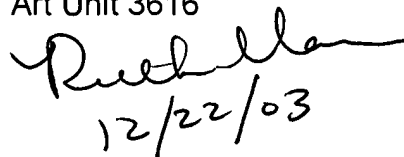
The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

RI  
12/22/03

Ruth Ilan  
Examiner  
Art Unit 3616



12/22/03